

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 119
ILLINOIS CARES RX PROGRAM

Section

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AUTHORITY: Implementing the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25] and implementing and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 13816, effective October 1, 2004, for a maximum of 150 days; adopted at 29 Ill. Reg. 4069, effective February 25, 2005; emergency amended at 30 Ill. 482, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified in response to the Joint Committee on Administrative Rules' Objection at 30 Ill. Reg. 5436, effective February 28, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. _____, effective May 26, 2006.

Section 119.10 Definitions

The following definitions apply for purposes of this Part:

"Act" means the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25].

"Applicant" means any person in a household who has requested pharmaceutical assistance benefits on an application filed by an applicant.

"Beneficiary" means a person whose application for pharmaceutical assistance benefits under the Act has been approved by the Department on Aging.

"Brand name drug" means those drugs as defined in Section 140.440(g)(3) when dispensed to an individual not enrolled in Medicare Part D. When dispensed to an individual enrolled in Medicare Part D, brand name drugs means those legend drugs defined as brand name drugs by the individual's Medicare Prescription Drug Plan (PDP).

"Coordinating Prescription Drug Plan" means a Medicare Part D Prescription Drug Plan that has signed a coordination agreement with the Department and to which the Department pays a per member/per month (PM/PM) payment for each Illinois Cares Rx beneficiary that the Department has assigned to that Plan.

"Department" means the Illinois Department of Healthcare and Family Services.

"Director" means the Director of the Illinois Department of Healthcare and Family Services.

"Disabled person" means a person who is unable to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. [320 ILCS 25/3.14]

"Disease" means a chronic and possibly recurrent illness of long duration, as distinguished from an acute illness that is of short duration with recovery due to limited medical treatment (such as in the case of colds, flu, pneumonia, bronchitis, or other similar illnesses).

"Domiciled" means having a fixed habitation at a permanent residence in Illinois at the time of filing the application and during the coverage year.

"Electronic application" means the electronic document set forth in 86 Ill. Adm. Code 530.305(a).

"FPL" means the federal poverty income guideline as determined annually by the United States Department of Health and Human Services.

"Generic drug" means those legend drugs as defined in Section 140.440(g)(2) when dispensed to individuals not enrolled in Medicare Part D. When dispensed to individuals enrolled in Medicare Part D, generic drugs means those legend drugs defined as generic drugs by the individual's Medicare Prescription Drug Plan (PDP).

"Household" means an applicant or an applicant and his or her spouse living together in the same residence. [320 ILCS 25/3.05]

"Household income" means the combined income of the members of a household for a year. [320 ILCS 25/3.06]

"Illinois Cares Rx Plus" means the provision of benefits to individuals in eligibility group 3 or 4 as defined in 320 ILCS 25/4(g).

"Illinois Cares Rx Basic" means the provision of benefits to individuals in eligibility group 1 or 2 as defined in 320 ILCS 25/4(g).

"Illinois Cares Rx Basic Covered Prescription Drug" means any drug included in the categories listed in Section 119.80 and prescribed as set forth in Section 119.80.

"Illinois Cares Rx Rebate" means an Illinois Cares Rx benefit in the form of a monetary payment (a monthly payment of \$25) made to an individual enrolled in a third-party plan that provides a pharmacy benefit or a PDP that is not a Coordinating Medicare PDP. The payment is made in lieu of the covered services described in Section 119.60.

"Income" means adjusted gross income, properly reportable for federal income tax purposes under the provisions of the Internal Revenue Code, modified as defined in 320 ILCS 25/3.07.

"Non-Preferred Drug" means those drugs that are 3rd tier or higher on an individual's Medicare Part D Prescription Drug Plan's (PDPs) formulary or the Department's Preferred Drug List.

"Over-the-counter items" means those pharmaceutical items that may be purchased off the shelf by the general public.

"Pharmaceutical product" means a brand name drug, a generic drug, or an over-the-counter item.

"Prescription Drug Plan" or "(PDP)" means a Medicare Part D Prescription Drug Plan.

"Program" means the Illinois Cares Rx Pharmaceutical Assistance Program provided for under the Act.

"Projected income" means household income expected to be received for a coverage year.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.20 Eligibility

- a) Illinois Cares Rx Eligibility Qualifications
To be eligible for Illinois Cares Rx pharmaceutical benefits, an individual must meet all of the following requirements:
 - 1) Be:
 - A) 65 years of age or older; or
 - B) a disabled person.
 - 2) Be domiciled in Illinois at the time of filing an application, and during the coverage period.
 - 3) Except for individuals choosing Illinois Cares Rx Rebate, enroll with a Coordinating Medicare Part D PDP if eligible for Medicare Part D.
 - 4) Except for individuals choosing Illinois Cares Rx Rebate, apply for all available subsidies under Medicare Part D. The Department may deem individuals to be compliant with this requirement in cases where the Department's data clearly indicates the individual would not be eligible for any low income subsidy.
 - 5) Have a maximum household income as described in subsections (a)(5)(A), (B) or (C). If any income eligibility limit set forth in subsections (a)(5)(A), (B) or (C) is less than 200 percent of the Federal Poverty Level (FPL) for any year, the income eligibility limit for that year for households of that size shall be income equal to or less than 200 percent of the FPL.
 - A) less than \$21,218 for a household containing one person;
 - B) less than \$28,480 for a household containing two persons; or
 - C) less than \$35,740 for a household containing three or more persons.
 - 6) Individuals eligible for SeniorCare on December 31, 2005 will be automatically determined eligible for and enrolled in Illinois Cares Rx Plus for coverage year 2006; individuals eligible for Circuit Breaker Pharmaceutical Assistance on December 31, 2005 will be automatically

determined eligible for and enrolled in Illinois Cares Rx Basic for coverage year 2006.

b) Illinois Cares Rx Plus Eligibility Qualifications

To be eligible for Illinois Cares Rx Plus pharmaceutical benefits as described in Section 119.60(a), an individual must meet all of the eligibility requirements described in Section 119.20(a) and meet all of the following requirements:

- 1) Be a U.S. citizen or qualify as an eligible non-citizen pursuant to 89 Ill. Adm. Code 120.310.
- 2) Be 65 years of age or older.
- 3) Have countable annual income at or below 200 percent of the FPL guidelines published annually by the U.S. Department of Health and Human Services.

c) Proof of Eligibility Qualifications

An applicant must submit proof of his or her eligibility qualifications as described in subsections 119.20(a) and (b).

- 1) Examples of proof of date of birth include:
 - A) a baptismal record; or
 - B) a birth certificate; or
 - C) a driver's license; or
 - D) an identification card from the Secretary of State's office; or
 - E) an insurance policy; or
 - F) naturalization papers.
- 2) Examples of proof of disability include:
 - A) proof that an applicant is eligible to receive disability benefits under the federal Social Security Act of 1935 (see 42 USC 423); or

- B) issuance of an Illinois Disabled Person Identification Card stating that an applicant is under a Class 2 disability, as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A]; or
 - C) status of an applicant as a disabled person determined by a physician designated by the Department using the same standards as used by the Social Security Administration with the costs of any required examination paid by the applicant (see 42 USC 423); or
 - D) receipt by an applicant of Railroad (see 45 USC 231), Civil Service, or Veterans' total disability benefits (see 38 USC 101). (See 320 ILCS 25/3.14.)
- d) Income

Income shall be based on income for the full calendar year prior to the year the applicant filed an application for pharmaceutical benefits, unless the applicant requests consideration of projected income as described in subsections (d)(1)(A), (B), (C), (D) and (E).

 - 1) Projected Income
 - A) An applicant may request that projected income for the coverage year be used as current income in determining eligibility at the time an application is filed if projected income for the coverage year will be lower than current income for the coverage year. The application must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the application if its use will enable an applicant to qualify for this program.
 - B) An applicant whose application has been denied for exceeding maximum household income eligibility qualifications may file an amended application requesting use of projected income for the coverage year as current income for the coverage year in re-determining eligibility if projected income for the coverage year will be lower than current income for the coverage year. The amended application must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of

income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the amended application if its use will enable an applicant to qualify for this program.

- C) A beneficiary whose application has been approved for Illinois Cares Rx Basic may file an amended application requesting use of projected income for the coverage year as current income for the coverage year in redetermining the eligibility for Illinois Cares Rx Plus if projected income for the coverage year will be lower than current income for the coverage year. The amended application must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the amended application if its use will enable a beneficiary to qualify for Illinois Cares Rx Plus.
 - D) Amended applications for pharmaceutical assistance benefits must be filed on the appropriate paper forms approved by the Department prior to the expiration of the coverage year for the coverage year at issue.
 - E) A beneficiary may not use projected income for two consecutive years.
- 2) **Countable Income**
The earned and unearned income of the applicant and his or her spouse (if the spouse resides with the applicant) shall be counted when determining eligibility.
 - 3) **Assets shall not be considered.**
 - 4) **Illinois Cares Rx Plus participants shall be exempt from the requirements of 89 Ill. Adm. Code 102.210, Estate Claims, with regard to expenditures made for Illinois Cares Rx benefits.**
 - e) An individual who is eligible for medical assistance with a spenddown may participate in Illinois Cares Rx.

- f) An individual who receives benefits from any of the Medicare Savings programs Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLIB), or Qualified Individual (QI) may participate in Illinois Cares Rx.
- g) Application Process
 - 1) An application for pharmaceutical assistance benefits under the Act must be filed on the appropriate paper or electronic forms approved by the Department on Aging.
 - 2) Individuals shall apply by completing and submitting an application as specified by the Illinois Department on Aging.
 - 3) Spouses may apply on the same application as long as the application contains both signatures.
 - 4) After eligibility is determined by the Illinois Department on Aging, notice of the outcome shall be sent to the applicant.
 - 5) An individual enrolled in Illinois Cares Rx shall receive coverage under his or her own name and unique Recipient Identification Number.
- h) Enrollment Periods
 - 1) Enrollment shall be effective the first of the month no later than the second month after the date when the applicant was determined to be eligible for the program.
 - 2) The initial coverage period shall continue from the effective date of the enrollment through the end of the calendar year following the year in which the beneficiary filed the application for Illinois Cares Rx benefits.
 - 3) Individuals must reapply annually.
 - 4) Subsequent uninterrupted periods of enrollment shall be for 12 months and shall be coincident with the calendar year.
- i) Authorization of Illinois Cares Rx

Once an individual has been determined eligible for Illinois Cares Rx, an Illinois Cares Rx identification card shall be sent to the individual, unless the individual elects to participate in the Illinois Cares Rx Rebate Program.

- j) Illinois Cares Rx coverage shall terminate:
- 1) at the end of a participant's coverage period unless the participant reapplies timely and is found to continue to be eligible;
 - 2) when a participant no longer resides in Illinois;
 - 3) when a participant becomes an inmate of a public institution as set forth in 42 CFR 435.1008;
 - 4) upon a participant's death;
 - 5) upon discovery that the initial determination of the participant's eligibility was incorrect; or
 - 6) when a participant fails to apply for any low income subsidy available under Medicare Part D, except in cases where the Department has deemed the individual to be compliant based on the Department's data.
- k) **Appeal Rights**
Any applicant or beneficiary aggrieved by action of the Department under the Act, whether in the denial of an application or amended application may request in writing that the Department reconsider its action, setting out the facts on which the request is based. The Department will consider the request and either affirm or modify its action.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.30 Low Income Subsidy

- a) To be eligible for Illinois Cares Rx, Medicare-eligible enrollees must apply for all available subsidies under Medicare Part D. The Department may deem individuals to be compliant with this requirement in cases where the Department's data clearly indicate the individual would not be eligible for any low-income subsidy (LIS) as described in 89 Ill. Adm. Code 127.
- b) Eligibility of individuals who do not apply for LIS, except in cases where Department data clearly indicate the individual would not be eligible for any LIS, may be terminated at the end of the month following the month in which written notice of termination was given to the individual.
- c) If the beneficiary provides proof of application for LIS prior to the scheduled termination date, eligibility will not be terminated.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.40 Automatic Enrollment of Program Beneficiaries

The Department may auto-enroll beneficiaries with a Coordinating Medicare Part D Prescription Drug Plan authorized under Section 1860D-1 of the Social Security Act. The Department shall enroll the eligible beneficiaries into a Coordinating Medicare Part D PDP in order to coordinate the members' Medicare prescription drug benefit coverage with coverage under the program.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.50 Assignment and Coordination of Benefits

- a) Acceptance of benefits under Illinois Cares Rx, except for the Illinois Cares Rx Rebate, constitutes assignment of benefits from any private plan of assistance, including any insurance plan, public assistance program, or third party for covered prescription drugs under this program.
- b) The Department shall charge or collect payments from any private plan of assistance, including any insurance plan, public assistance program, or third party for any claims assigned by a beneficiary.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.60 Covered Services

a) Illinois Cares Rx Plus

- 1) For an individual enrolled in a Coordinating Medicare Part D Plan, except for an individual who elects to participate in the Illinois Cares Rx Rebate Program, coverage under the Illinois Cares Rx Plus Program shall consist of:
 - A) Payment to the individual's Coordinating Medicare Part D PDP for premium, deductible and cost-sharing expenses, except for applicable cost sharing and co-payments set forth in Section 119.90 for pharmaceutical products covered by the individual's Medicare Part D PDP.
 - B) Pharmaceutical products excluded by Medicare Part D but covered by the Medical Assistance Program operated pursuant to Article V of the Public Aid Code.
- 2) For an individual not eligible for Medicare Part D, except for an individual who elects to participate in the Illinois Cares Rx Rebate Program, covered services under the Illinois Cares Rx Plus Program shall consist of pharmaceutical products that are covered by the Medical Assistance Program operated pursuant to Article V of the Public Aid Code.
- 3) For a Medicare-eligible individual who is enrolled in a non-coordinating Medicare Part D PDP and not enrolled in the Illinois Cares Rx Rebate Program, payment of the monthly Part D premium for basic coverage directly to the individual's Medicare Part D PDP.

b) Illinois Cares Rx Basic

- 1) Except for an individual who elects to participate in the Illinois Cares Rx Rebate Program, for individuals enrolled in a coordinating Medicare Part D PDP, coverage under the Illinois Cares Rx Basic Program shall consist of:
 - A) Payment to the individual's Medicare Part D PDP for premium, deductible and cost sharing expenses, except for applicable cost sharing and co-payments described in Section 119.90 for

pharmaceutical products prescribed as described in Section 119.80 that are covered by the individual's Medicare Part D PDP.

- B) Payment to a pharmacy for Illinois Cares Rx Basic Covered Pharmaceutical products excluded by Medicare Part D and prescribed as set forth in Section 119.80.
- 2) For an individual not eligible for Medicare Part D, except for an individual who elects to participate in the Illinois Cares Rx Rebate Program, covered services under the Illinois Cares Rx Basic Program shall consist of pharmaceutical products that are prescribed as described in Section 119.80.
- 3) For a Medicare-eligible individual who is enrolled in a non-coordinating Medicare Part D PDP and not enrolled in the Illinois Cares Rx Rebate Program, payment of the monthly Part D premium for basic coverage directly to the individual's Medicare Part D PDP.
- c) If a coordinating Medicare Part D PDP has an approved actuarially equivalent benefit design pursuant to Section 1860D-2(a)(3)(B) of the Social Security Act, the Department may adjust the threshold at which a beneficiary begins paying 20 percent cost sharing if necessary for the PDP to coordinate administration of the Illinois Cares Rx benefit with the Medicare Part D benefit. The threshold may not be lower than \$1,750.
- d) An individual determined eligible for Illinois Cares Rx who is enrolled in a third-party plan that provides a pharmacy benefit or a Medicare Part D PDP that is not a Coordinating Medicare Part D PDP may choose the Illinois Cares Rx Rebate option in lieu of receiving the covered services set forth in subsections (a), (b) or (c) of this Section. An individual enrolled in Illinois Cares Rx Rebate receives his or her benefit in the form of a monetary payment (a monthly payment of \$25) made to the individual. An individual who has been determined eligible for the full low income subsidy (LIS) may not choose Illinois Cares Rx Rebate.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.70 Prior Authorization and Preferred Drug List (PDL)

- a) For Medicare-eligible individuals enrolled in a coordinating Medicare Part D PDP, the Department may enforce the PDP's Preferred Drug List by requiring tiered copays of \$15 for each dispensing of a non-preferred drug.
- b) For individuals not enrolled in Medicare, the Department may utilize a Preferred Drug List (PDL) enforced through the prior approval process and other utilization controls including, but not limited to, maximum quantity, daily dose and refill-too-soon.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.80 Illinois Cares Rx Basic Covered Prescription Drugs

The Illinois Cares Rx Basic Program shall cover pharmaceutical products as described in this Section for the treatment of heart disease and its related conditions, diabetes, arthritis, cancer, Alzheimers' disease, Parkinson's disease, glaucoma, lung disease and smoking related illnesses, osteoporosis, and multiple sclerosis.

- a) Drugs prescribed for treatment of heart disease and its related conditions that fall within the following categories qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Antihypertensives
 - 2) Antiarrhythmics
 - 3) Antihyperlipidemics
 - 4) Cardiac Glycosides
 - 5) Calcium Channel Blockers
 - 6) Vasodilators
 - 7) Anti-Adrenergic/Sympatholytics
 - 8) Renin Angiotensin System Antagonists
 - 9) Diuretics
 - 10) Potassium Supplements
 - 11) Anticoagulants
 - 12) Vasopressor Used in Shock
 - 13) Potassium Removing Agents
 - 14) System Alkalizers

- b) Drugs that fall within the following categories for the treatment of diabetes qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Insulin
 - 2) Syringes and Needles
 - 3) Oral Hypoglycemics
 - 4) Posterior Pituitary Hormones
 - 5) Hyperglycemics
- c) Drugs that fall within the following categories and are prescribed for the treatment of arthritis qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Adrenocortical Steroids
 - 2) Antimalarials
 - 3) Analgesics
 - 4) Antirheumatic Agents
 - 5) Immunomodulators
 - 6) Immunosuppressives
 - 7) NSAIDS
 - 8) Penicillamine
- d) Drugs that fall within the following categories and are prescribed for the treatment of cancer qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Analgesics
 - 2) Anticonvulsants

- 3) Antineoplastics
- 4) Immunomodulators
- e) Drugs that fall within the following categories and are prescribed for the treatment of Alzheimer's disease qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) NMDA Receptor Antagonists
 - 2) Cholinesterase Inhibitors
- f) Drugs that fall within the following categories and are prescribed for the treatment of Parkinson's disease qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Antiparkinson Agents, Anticholinergics
 - 2) Antiparkinson Agents, Other
 - 3) Pituitary Suppressive Agents
- g) Drugs that fall within the following categories and are prescribed for the treatment of glaucoma qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Miotics/Other Intraocular Pressure Reducers
 - 2) Mydriatics
 - 3) Carbonic Anhydrase Inhibitors
- h) Drugs that fall within the following categories and are prescribed for the treatment of lung disease and smoking related illnesses qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Bronchodilators
 - 2) Diluents
 - 3) Mucolytics

- 4) Pancreatic Enzymes
 - 5) Smoking Cessation Products
 - 6) Corticosteroid Respiratory Inhalants and Combinations
 - 7) Antituberculosis Agents
 - 8) Mast Cell Stabilizers
 - 9) Leukotriene Receptor Antagonists
 - 10) Leukotriene Formation Inhibitors
 - 11) Monoclonal Antibodies
 - 12) Respiratory Enzymes
- i) Drugs that fall within the category of Bone Resorption Inhibitors and are prescribed for the treatment of osteoporosis qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs.
 - j) Drugs that fall within the following categories and are prescribed for the treatment of multiple sclerosis qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Immunomodulators
 - 2) Immunosuppressives
 - 3) Adrenocortical Steroids
 - k) An Illinois Cares Rx Basic covered prescription drug must be approved by the Food and Drug Administration of the federal Department of Health and Human Services for the treatment of a specific disease category.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.90 Co-Payments and Cost Sharing

Unless a federal low-income subsidy results in lesser co-payments and cost sharing, a Beneficiary enrolled in Illinois Cares Rx shall be responsible for payment of co-payments and cost sharing as follows:

- a) The applicable co-payment shall be equal to that required by Medicare Part D for “other low income subsidy eligibles” pursuant to 42 CFR 423.782(b) (in 2006, those co-payments are \$2 for each dispensing of a generic prescription and \$5 for each dispensing of a brand name prescription). For individuals enrolled in Medicare Part D, copayments are \$15 for each dispensing of a non-preferred drug.
- b) Twenty percent of the reimbursable amount of the prescription plus the applicable co-payment for each prescription dispensed after the Illinois Cares Rx benefit amount has reached \$1,750 for the calendar year.
- c) For those enrolled in Medicare Part D, the Illinois Cares Rx benefit amount is the total payments made by the PDP to pharmacies on behalf of the beneficiary, whether paid as a part of the Medicare benefit or the Illinois Cares Rx benefit. For those not in Medicare, the Illinois Cares Rx benefit amount is the total payments made by the Department to pharmacies on behalf of the beneficiary.
- d) A beneficiary also must pay to an authorized pharmacy an ancillary charge for any covered prescription drug that is a brand name product if the pharmacy is reimbursed at the generic price as provided in Section 119.100 (b)(2) and (3).

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.100 Pharmacy Payment

- a) Direct payment to pharmacies by the Department is made only for pharmaceutical products for individuals not enrolled in Medicare Part D or for Medicare Part D excluded pharmaceutical products covered by the Department when dispensed to individuals enrolled in Medicare Part D.
- b) Reimbursable Amount
 - 1) Except as provided in subsections (b)(2), (3) and (4) of this Section, the reimbursable amount for a pharmaceutical product eligible for direct payment by the Department shall be:
 - A) For legend (prescription) drugs, the Department shall pay the lower of:
 - i) the pharmacy's prevailing charge to the general public; or
 - ii) the Department's maximum price plus a dispensing fee of \$2.25 for both generic and brand name drugs less applicable co-payments and cost sharing as set forth in Section 119.90.
 - B) For generic drugs, the Department's maximum price is calculated as the lowest of:
 - i) the average wholesale price minus 25 percent; or
 - ii) the Federal Upper Limit for drugs; or
 - iii) the State Upper Limit for drugs.
 - C) For brand name drugs, the Department's maximum price is calculated as the average wholesale price minus 14 percent.
 - D) For those over-the-counter drugs that are covered, the Department shall pay the lower of:
 - i) the prevailing charge to the general public; or
 - ii) the average wholesale price plus 25 percent; or

iii) the State Upper Limit.

- 2) If a generic drug is available, based upon the Illinois Formulary for Drug Product Selection Program (77 Ill. Adm. Code 790), and the individual wants the brand name equivalent of the drug, the reimbursable amount shall be that of the generic drug.
- 3) If a brand name drug is dispensed when the reimbursable amount is that for the generic drug, the individual shall be responsible for paying the difference between the reimbursable amount (based upon the generic drug) and what would have been the reimbursable amount for the brand name drug, plus the applicable co-payment or cost sharing.
- 4) Payment by the Department to a participating pharmacy for a pharmaceutical product dispensed to an individual eligible for Illinois Cares Rx shall be the difference of the reimbursable amount, as described in subsection (b) of this Section, less applicable co-payments, as described in Section 119.90, and any amount paid or payable by Medicare or another third party as described at 89 Ill. Adm. Code 140.12(h)(2).
- 5) The reimbursable amount to pharmacies for prescriptions processed by a Medicare Part D PDP shall be at the contracted rate between the pharmacy and the PDP.

c) Provider Participation

In order to bill the Department directly for prescriptions dispensed to participants in the Illinois Cares Rx Program, pharmacies shall be enrolled in the Medical Assistance Program under Article V of the Public Aid Code.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.110 Inspection and Disclosure of Records

- a) In order to ensure compliance with the requirements of the Act and to prevent fraud, the Department, or its designee, shall have the right:
 - 1) to inspect the books and records of all authorized pharmacies (see 320 ILCS 25/6(d)(5)); and
 - 2) to require disclosure of information on individuals who receive health coverage, pharmaceutical benefits, or related services as policyholders, subscribers, or plan participants from entities subject to the Illinois Insurance Code [215 ILCS 5], Comprehensive Health Insurance Plan Act [215 ILCS 105], Dental Service Plan Act [225 ILCS 25], Children's Health Insurance Program Act [215 ILCS 106], Health Care Purchasing Group Act [215 ILCS 123], Health Maintenance Organization Act [215 ILCS 125] Limited Health Service Organization Act [215 ILCS 130], Voluntary Health Services Plans Act [215 ILCS 165], and Worker's Compensation Act [820 ILCS 305].
- b) Information received by the Department or its designee shall be confidential except for official purposes and as otherwise provided in the Act. (See 320 ILCS 25/4.1.)

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.120 Establishment of Liens

The Director is entitled to establish a lien on any and all causes of action that accrue to a beneficiary as a result of injuries for which covered prescription drugs are directly or indirectly prescribed and for which payment was made under this program.

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.130 Penalties

- a) Any person who takes either of the following actions is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense:
 - 1) on behalf of an authorized pharmacy, files a fraudulent claim for payment; or
 - 2) fraudulently uses a card to obtain covered prescription drugs. (See 320 ILCS 25/9.)
- b) *The Department, in cooperation with the Department on Aging, will recover from any beneficiary or authorized pharmacy any amount paid under this program on account of an erroneous or fraudulent claim, together with 6 percent interest per year.*
- c) *A prosecution for violation of the provisions of the Act may be undertaken at any time within three years after the commission of that violation. [320 ILCS 25/9]*

(Source: Amended at 30 Ill. Reg. _____, effective May 26, 2006)

Section 119.140 Penalties (Repealed)

(Source: Repealed at 30 Ill. Reg. _____, effective May 26, 2006)